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November 19, 2010

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Fifteenth Annual Report on the State of Mobile Wireless Competition,
WT Docket No. 10-133

Dear Ms. Dortch:

As Chairman Genachowski noted this week, the “competition and innovation that we’re seeing in mobile is incredible.”¹ His statement echoes the factual record in this proceeding, which demonstrates that wireless competition is not only “effective,” but is both vigorous and accelerating.

In July, Verizon Wireless and others submitted extensive data demonstrating the fierce price and non-price competition among mobile service, device, and application providers, as well as among competitors in the upstream and downstream segments of the market.² In September, Verizon Wireless filed more recent data from the government, analysts, and wireless industry participants documenting continued growth in competition and the benefits flowing to consumers from that competition.³ As set forth below, these accelerating pro-competitive, pro-consumer trends are continuing well into 2010. This record not only warrants a finding of effective competition – it compels that finding.

Expanded Deployment of 4G Networks. T-Mobile launched a national television and print advertising campaign, proclaiming, according to a T-Mobile news release, that

¹ “Genachowski Says FCC Still Plans to Move Forward on Net Neutrality,” *Communications Daily*, Nov. 18, 2010, at 3.

² Comments of Verizon Wireless, WT Docket No. 10-133 (filed July 30, 2010) (“Verizon Wireless Comments”); Reply Comments of Verizon Wireless, WT Docket No. 10-133 (filed Aug. 16, 2010); Comments of CTIA-The Wireless Association, WT Docket No. 10-133 (filed July 30, 2010); Reply Comments of CTIA-The Wireless Association, WT Docket No. 10-133 (filed Aug. 16, 2010); Comments of AT&T Inc., WT Docket No. 10-133 (filed July 30, 2010); Reply Comments of AT&T Inc., WT Docket No. 10-133 (filed Aug. 16, 2010); Reply Comments of Cricket Communications, Inc., WT Docket No. 10-133 (filed Aug. 16, 2010); Comments of Sprint Nextel Corp., WT Docket No. 10-133 (filed July 30, 2010).

³ Letter from Tamara Preiss, Verizon, to Marlene H. Dortch, Federal Communications Commission, WT Docket No. 10-133 (filed Sept. 15, 2010).

it now owns “America’s largest 4G network.”⁴ According to T-Mobile, its “HSPA+ network is delivering 4G speeds that match and often beat WiMAX and are readily comparable to what early LTE will deliver. . . . [and that t]he footprint of [its] 4G service is not something that competitors are going to match anytime soon.”⁵ Sprint and Clearwire, which have claimed for many months in Sprint’s national advertising to be the country’s first 4G provider, have similarly announced that their 4G services are now available in even more locations and that they plan to light up several other major markets by the end of the year.⁶ MetroPCS also has begun providing 4G LTE services to a number of markets across the country.⁷ In some of these markets, MetroPCS was the first-to-market provider of 4G services.⁸ Finally, U.S. Cellular and Cellular South announced that they are moving ahead with LTE as well. U.S. Cellular plans to start trials in the beginning of 2011, with wide-scale deployment planned for 2012.⁹ And Cellular South has announced that they will launch a 4G LTE network in the fourth quarter of 2011.¹⁰

These developments, combined with the extensive data already in the record, confirm that many providers – new entrants as well as existing carriers of all sizes – have both the capacity and the resources to compete vigorously in providing broadband services, and are in fact doing so.

Greater Wireless Penetration and Usage; Decreased Wireless Prices. CTIA recently released the results of its Semi-Annual Survey on Wireless Trends, which further demonstrate the wireless industry’s continued growth and the many benefits consumers currently enjoy as a result of their wireless services.¹¹ Specifically, this survey found that

⁴ T-Mobile 4G Service Now Available in More Markets and on New Devices, Press Release, Nov. 2, 2010, at <http://press.t-mobile.com/articles/americas-largest-4g-network>. Verizon Wireless does not agree that HSPA+ is a 4G technology – and both Sprint and AT&T have contested T-Mobile’s claim. But the point for purposes of this proceeding is that T-Mobile’s claim to be leading the industry on 4G deployment is yet further evidence of a robustly competitive market.

⁵ *Id.*

⁶ Sprint 4G Continues to Stake Its Claim in California with Sacramento Launch, Press Release, Nov. 15, 2010, at http://newsroom.sprint.com/article_display.cfm?article_id=1717; Clearwire Offers the Capital City a New Way to Connect with CLEAR 4G, Press Release, Nov. 15, 2010, at <http://newsroom.clearwire.com/phoenix.zhtml?c=214419&p=irol-newsArticle&ID=1496040&highlight=>.

⁷ MetroPCS Launches First Commercial 4G LTE Services in Los Angeles and Philadelphia Metropolitan Areas, Press Release, Nov. 4, 2010, at <http://www.metropcs.com/presscenter/articles/mpcs-news-20101104.aspx>.

⁸ *Id.*

⁹ Mike Dano, “U.S. Cellular plans LTE test, vendor selection next year,” *Fierce Wireless*, Nov. 10, 2010, at <http://www.fiercewireless.com/story/us-cellular-plans-lte-test-vendor-selection-next-year/2010-11-10#ixzz15OFEXVAP>.

¹⁰ Cellular South announces strategic alliance with Samsung Telecommunications to build LTE 4G high-speed wireless broadband data network infrastructure, Press Release, Nov. 17, 2010, at <https://www.cellularsouth.com/news/2010/20101117.html>.

¹¹ CTIA-The Wireless Association® Releases Semi-Annual Survey on Wireless Trends, Press Release, Oct. 6, 2010, at <http://www.ctia.org/media/press/body.cfm/prid/2021>.

wireless subscriber connections rose to 292.8 million, representing an increase of approximately 16 million since June 2009 and a penetration rate of 93 percent. This survey also found that wireless subscribers used 2.26 trillion minutes (up by 19 billion minutes), 1.8 trillion text messages (up by 33 percent), and 56.3 billion multimedia messages (an increase of 187 percent) between June 2009 and June 2010, and 161.5 billion megabytes of data in the first six months of 2010 (up 49.8 percent from the last half of 2009). In addition, the average local monthly bill fell by 4.2 percent to \$47.47 over the same period. Further, the number of smartphones and wireless-enabled PDAs increased from 40.7 million in June 2009 to 61.2 million in June 2010, bringing the total number of data-capable devices on wireless carriers' networks to 265.6 million. Finally, this study shows that carriers across the industry are continuing to invest substantially in their networks, spending \$21.6 billion in capital expenditures since July 2009 – facts that underscore the virtuous cycle as competition and investment spur each other.

Success of Pre-Paid Services. Verizon Wireless' comments showed that that the prepaid market – in which TracFone enjoys by far the largest share – has rapidly grown into a significant segment of the wireless industry that provides even more choices for consumers.¹² Recent data confirm this trend. Indeed, according to a new survey by the New Millennium Research Council, one in five U.S. cell phone customers with contract-based service – or approximately 24.6 million American adults – is likely to switch to an unlimited prepaid wireless service with no early-cancellation penalty in early 2011.¹³ This survey also found that well over half of U.S. cell phone consumers with a contract-based service that are not likely to switch to a prepaid service within the next six months are “very or somewhat open to switching . . . at some point in the future.”¹⁴

Other Developments. Finally, wireless carriers made a variety of other announcements over the past two months that further demonstrate the wireless industry's competitiveness and continuing evolution. For example:

- U.S. Cellular launched The Belief Project, which offers wireless consumers “One and Done” contracts, a robust rewards program with points that never expire for active accounts, simplified national rate plans, overage protection, a phone replacement program, and savings of up to 5 percent on their monthly bills for setting up auto pay and paperless billing.¹⁵

¹² Verizon Wireless Comments at 47, 49-54.

¹³ New Millennium Research Council, Survey: 25 Million Penny-Pinching U.S. Consumers Set to Switch to No-Contract/Prepaid Wireless in Next Six Months, Nov. 4, 2010, at http://www.newmillenniumresearch.org/news/110410_NMRC_Net10_prepaid_trends_survey_news_release.pdf.

¹⁴ *Id.*

¹⁵ U.S. Cellular Launches Industry-First Programs that Elevate the Wireless Customer Experience, Reward Loyalty, Press Release, Sept. 30, 2010, at <http://www.uscellular.com/about/press-room/2010/industry-first-programs.html>.

- Cox unveiled its new mobile phone and high-speed Internet services in several locations throughout the country.¹⁶ As part of its new wireless service plan, Cox will provide cash back on customers' bills for unused minutes each month – up to \$20 a month.
- MetroPCS announced that its customers may now use their service in areas covering more than 90 percent of the U.S. population.¹⁷
- A number of carriers announced new service plans. For example, Boost Mobile announced new service plans under which subscribers' monthly rates will decrease after 6 months, 12 months, and 18 months of on-time payments.¹⁸ T-Mobile also announced a new 200 MB data plan option for its smartphone customers, which will cost \$15, and a \$15 tethering option that can be added to its \$30 unlimited data plan.¹⁹
- Clearwire reported record subscriber and revenue growth in the third quarter of 2010, with 1.23 million new subscribers and \$147 million in revenue, demonstrating its continuing growth.²⁰ Clearwire also announced that its domestic 4G network now reaches approximately 100 million people in the U.S. and expects to cover up to 120 million people by year end.
- MetroPCS and T-Mobile also reported significant subscriber additions in the third quarter of 2010, with MetroPCS reporting 223,000 additions – up 237% over the same quarter of 2009 – and T-Mobile reporting 137,000 additions.²¹

These developments only confirm what the record of this proceeding already shows: today's wireless industry is effectively competitive and consumers are experiencing the benefits of this competition.

¹⁶ Cox Unveils Unprecedented 'Unbelievably Fair(SM)' Wireless Plans, Bringing More Value to the Bundle, Press Release, Nov. 19, 2010, at <http://cox.mediaroom.com/index.php?s=43&item=516>.

¹⁷ MetroPCS to Launch Metro USA Nationwide Coverage, Press Release, Nov. 4, 2010, at <http://www.metropcs.com/presscenter/articles/mpcs-news-nationwide-20101104.aspx>.

¹⁸ See Boost Mobile, Shrinkage: Longer You Stay, Less You Pay, at <https://plans.boostmobile.com/shrinkage.aspx>.

¹⁹ T-Mobile Kicks Off the Holidays with a Compelling Lineup of Affordable Android-Powered Smartphones and New Low-Cost Data Service Plans, Press Release, Nov. 1, 2010, at <http://press.t-mobile.com/articles/t-mobile-offers-affordable-android-smartphones-data-plans>.

²⁰ Clearwire Reports Record Subscriber and Revenue Growth in Third Quarter 2010, Press Release, Nov. 4, 2010, at <http://newsroom.clearwire.com/phoenix.zhtml?c=214419&p=irol-newsArticle&ID=1492262&highlight=>.

²¹ T-Mobile USA Results Bolstered by Rising Prepaid Customers, Wholesale, Smartphone Use, TR Daily, at 17, Nov. 4, 2010; MetroPCS Beats 3Q Subscriber Add Estimates, TR Daily, at 17, Nov. 4, 2010.

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Pursuant to Section 1.1206(b)(2) of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan L. Stein". The signature is written in a cursive, flowing style.

cc: Ruth Milkman
Jim Schlichting
John Leibovitz
Nese Guendelsberger